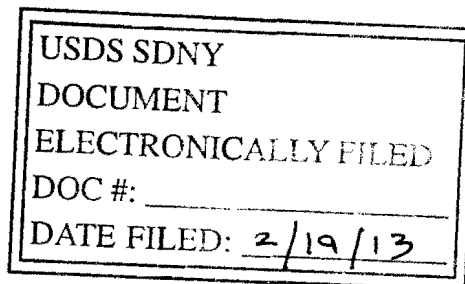


MEMO ENDORSED

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February 13, 2013

VIA FACSIMILE  
(212) 805-7930Honorable James C. Francis  
Southern District of New York  
500 Pearl Street, Room 615  
New York, NY 10007Re: Zamboni, et al. v. Pepe West 48th Street LLC, et al.  
Case No. 12 Civ. 3157 (AJN)

Dear Judge Francis:

We represent Plaintiffs in the above-captioned matter. On February 5, 2013 this Court held a conference call to discuss, *inter alia*, Plaintiffs' request that Defendants turn over all declarations they received/procured relating to this action. The Court ordered Defendants to produce all such declarations, finding that none of the declarations were work-product privileged, including those by non-party service employees. On February 11, 2013, Defendants produced Gregory Nemes' declaration and refused to produce the non-party declarations. Upon request, Defendants insist that they will not turn over these declarations absent a copy of the transcript and/or an explicit Court Order in writing. There appears to be no transcript of the telephone call. Accordingly, we respectfully request that this Court (again) Order the Defendants to produce the declarations of non-party service employees. In addition, given that there is a Conference scheduled for February 21, 2013, which shall address Plaintiffs' allegations regarding the procurement of these declarations, Plaintiffs respectfully request that (a) Defendants be required to produce the documents on or before February 15, 2013; or (b) that the Conference be adjourned until at least three (3) days after the date by which Defendants must produce these declarations.

We thank the Court for its attention to this matter.

Respectfully submitted,

  
D. Maimon Kirschenbaum

*Application denied. Some misunderstanding may have arisen from my direction that the declarations of opt-ins be produced. I intended this order to cover employees who had actually opted in, not those who may do so in the future.*

*2/19/13*  
*SO ORDERED.*  
*James C. Francis IV*  
*USMJ*

cc: Richard Milman, Esq.